

U.S. Department of Labor

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Issue Date: 27 August 2007

CASE NO.: 2007-LHC-233

OWCP NO.: 06-197980

IN THE MATTER OF

F.C.¹,

Claimant

v.

LABOR FINDERS,

Employer

and

ACE AMERICAN INSURANCE COMPANY,

Carrier

APPEARANCES:

MICHAEL G. HUEY, ESQ.

On behalf of Claimant

HEATHER W. BLACKBURN, ESQ.

On behalf of Employer

BEFORE: C. RICHARD AVERY

Administrative Law Judge

¹ Pursuant to a policy decision of the Department of Labor, the Claimant's initials rather than full name are used to limit the impact of the Internet posting of agency adjudicatory decisions for benefit claim programs.

DECISION AND ORDER

This is a claim for benefits under the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 901 et. seq., (The Act), brought by Claimant against Labor Finders (Employer) and Ace American Insurance Company (Carrier). The formal hearing was conducted in Mobile, Alabama on May 25, 2007. Each party was represented by counsel, and each presented documentary evidence, examined and cross examined the witnesses, and made oral and written arguments.² The following exhibits were received into evidence: Joint Exhibit 1, Claimant's Exhibits 1-2, and Employer's Exhibits 1-27.³ Claimant objected to EX-9, which had some comments on the bottom of the page which were not part of the official report. Given there was no witness to substantiate this document, the comments were excluded from the record. This same piece of evidence was also found at EX-10 pp. 45. Similarly, EX-14, pp.1 had unsubstantiated comments on it and thus, these comments were also excluded from the record. This decision is based on the entire record.

Stipulations

Prior to the hearing, the parties entered into joint stipulations of facts and issues which were submitted as follows:

1. The date of injury/accident is disputed.
2. Injury in course and scope of employment is disputed.
3. Employer/Employee relationship at time of accident: the parties stipulate that Claimant was an employee of Labor Finders from approximately October 28, 2005 through early January 2006.
4. Date Employer was advised of the injury is disputed.
5. Notice of Controversion was filed on January 15, 2006.
6. An informal conference was held on June 28, 2006.
7. Applicable average weekly wage: \$1,500.00.
8. Nature and Extent of Disability is disputed
9. Whether medical benefits have been paid is disputed.
10. Date of maximum medical improvement is disputed.

² The parties were granted time post hearing to file briefs.

³ The following abbreviations will be used throughout this decision when citing evidence of record: Trial Transcript Pages- (TR. pp __); Joint Exhibit (JX- __); Employer's Exhibit (EX- __); and Claimant's Exhibit (CX- __).

Issues

The unresolved issues in this proceeding are:

1. Occurrence of accident and/or injury;
2. Nature and extent of disability, if any, related to alleged work accident;
3. Whether Employer is liable for past, present or future medical benefits;
4. Entitlement to and amount of attorney's fees, penalties and interest;
5. Whether Employer is liable for past, present or future indemnity benefits;
6. Whether Labor Finders and its workers' compensation carrier are entitled to offset, credit or reimbursement for benefits paid.

Statement of the Evidence

Claimant

Claimant is 48 years old and has a seventh grade education. He left school the week before he turned 16 and testified he can read and write very little. He had worked as a blaster and painter offshore and is a certified crane operator.

In 1992 Claimant injured his back and had two surgeries by Dr. Maddox. The first surgery was to fuse Claimant's L3 and L4 vertebrae and the second to remove the hardware. Claimant was released to work in 1994 with a limitation of 100 pounds lifting and went back to his former work. (EX-16, pp107) Subsequently, Claimant had a motorcycle wreck and an incident where he stepped in a hole while carrying something. Through out this time he continued to complain of back discomfort and saw numerous physicians for back complaints, including Drs. Maddox and Tarabein.

On November 25, 2005, while working for Employer, Claimant smashed his left thumb, but declined medical attention. Then, according to Claimant's unsupported testimony, on December 20 or 22, 2005⁴ he got on a barge at work

⁴ EX-10, pp. 2, contains a drug test refusal form, which Claimant had no recollection of, on which a handwritten note was attached which stated "Floyd found out company was about to cut back. He came and said he hurt his back. Told him to go to the doctor. He never went and never came back to sign refusal form..." This note was dated December 22, 2005.

and started down the ladder to the hold when he was struck by an 8,000 pound bucket swinging on a crane. When he saw the bucket coming back at him, Claimant said he let go of the ladder and jumped to the floor of the barge. (EX-10, pp. 44 contains an accident report later filled out at Claimant's request.) Claimant did not finish working that day. He did return to work the next day but testified he left early because he was hurting.

In the weeks following the accident, Claimant continued working, although he stated he was working off an on, and said he had no bruising or visible injury. He did not seek medical attention until January 5, 2006, when he saw Dr. Taylor. Dr. Taylor assigned light duty for two or three days followed by full duty. (EX-10, pp 40) Claimant disagreed, hired an attorney, and in June 2006 started treating with Dr. Allen. He has not worked since January 2006 and testified he is totally disabled because of his back following the December 2005 incident at work.

Associated Marine Equipment, LLC Accident Report (EX-9)⁵

The accident report states, "Floyd claims bucket hit and smashed him into vessel while climbing into hole. No marks were found on body where he claims a 12,000 pound bucket hit him. It seems impossible to me that a bucket could hit him and have no marks and not fall down the ladder." It also stated that Claimant refused medical treatment and went back to work. This accident report is dated November 26, 2005.

Medical Evidence

Dr. Terry Taylor

Attached to Dr. Allen's deposition are medical records from Industrial Medical West where Claimant first saw Dr. Terry Taylor on January 5, 2006, for an alleged injury reported to have occurred on December 20, 2005. (CX-1, pp 49-51). Relying on the history provided him by Claimant, Dr. Taylor though noting no bruising diagnosed contusion chestwall, thorax, back and buttock. Dr. Taylor limited Claimant to modified duty with limited lifting of 10 lbs. and provided medication. A second appointment was scheduled for January 9, 2006, but there's no indication Claimant returned, and the next medical provider was apparently not

⁵ There appears to be some discrepancy in the date of accident, as the report is dated November 26, 2005. The reason for this is unknown.

sought by Claimant until July 24, 2006, when Claimant presented himself to Dr. Herbert Allen for an injury reportedly to have occurred on December 26, 2005.

Dr. Herbert V. Allen, III

Dr. Allen testified by deposition on March 26, 2007. He was accepted as an expert in general orthopedics. Dr. Allen stated that although he had not had a chance to review any other documents than his own, it was obvious Claimant had a long history of back pain.

Dr. Allen first examined Claimant on July 24, 2006. Claimant filled out a patient questionnaire indicating he had low back pain, left side pain, left chest wall pain, and achy pain down his leg. He further indicated to Dr. Allen that he had pleuritic chest pain, limited sitting and standing time, pain radiating around his right side and down his left leg and back pain. Claimant indicated that walking made his pain a little better. Claimant told Dr. Allen he [Claimant] had had two prior surgeries in 1992 and 1993, which were successful and afterward he returned to doing heavy duty work.

Claimant gave a history to Dr. Allen stating he was hit by a crane bucket and had been pinned between the bucket and some other immovable object and that the bucket hit Claimant's stomach and pressed him against the other object. Claimant did not lose consciousness but had severe pain. Apparently, Claimant had given the same history to Dr. Taylor at Industrial Medical West, which had the date of injury as December 20, 2005. Dr. Allen had the date of injury as December 22, 2005 on Claimant's patient information sheet. However, at Claimant's first visit in July 2006, he gave an accident date of December 26, 2005.

Dr. Allen performed a physical examination of Claimant and found Claimant's subjective complaints consistent with Dr. Allen's physical findings. He also believed his findings were consistent with Claimant's description of the mechanism of injury. Dr. Allen noted that Claimant was slumped over and could barely walk into the office at this initial visit. Dr. Allen was next asked whether he thought Claimant could have been employed since January 2006, when he had an initial visit regarding his back pain with Dr. Taylor. Dr. Allen noted that it appeared Claimant was really hurting and that his condition of intercostal neuralgia (pain upon breathing) does not always get better over time; therefore, he thought it was reasonable that Claimant could have been hurting since the accident.

Claimant's intercostal nerves were blocked which gave him a lot of relief upon breathing; Dr. Allen also ordered x-rays of his lumbar spine and an MRI. He took Claimant off work for six weeks. Claimant had an MRI performed in August which was authorized by the compensation carrier. Claimant's MRI revealed an annular bulge at L4-5, mild facet hypertrophy and a front bulging disc. The MRI also revealed a broad based disc at L5-S1. Dr. Allen opined that these findings were consistent with a crushing-type injury as reported by Claimant.

An epidural was performed to help with Claimant's leg pain, which did give him some relief but did not help his back pain. Dr. Allen concluded that conservative treatment was not helping Claimant. He explained that Claimant had a hernia which was giving him pain every time he straightened up. Dr. Allen opined that Claimant's injury would definitely have aggravated this condition.⁶ Dr. Allen wanted Claimant to be seen by Dr. Birch, but did not know whether Claimant had or not. Dr. Allen also opined that Claimant's accident would have aggravated his back problem. He explained that Claimant probably had a stenotic lesion at L4-5 but could get around okay. When he got hit by the bucket it caused his disc to bulge which aggravated the L4-5 area and caused the stenosis to get worse. Dr. Allen tried another epidural injection on Claimant and then decided that he needed surgery to help with Claimant's worsening radiculopathy.⁷ Dr. Allen again stated he believed these injuries were the result of Claimant's accident.

Claimant was sent to Dr. Patton, a sports medicine doctor, for a second opinion. Dr. Patton performed a thorough examination of Claimant and confirmed that he needed surgery. Dr. Patton's report had the date of injury listed as July 24, 2005; however, Dr. Allen stated that no intervening injuries had been reported to him. He also noted that Claimant did not show any signs of amplification of his symptoms. Dr. Allen stated that if Claimant does not get the needed surgery, he believes Claimant's symptoms will continue to worsen.

Dr. Allen inquired how Claimant's back had been since his 1992 and 1993 surgeries and was told by Claimant that there had not been any significant problems, nothing that would interfere with his work.

Dr. Allen clarified that he is recommending two surgeries, one for Claimant's hernia and one for his back condition.

⁶ It appears Claimant had a hernia prior to the accident, but it was made worse by the accident.

⁷ Dr. Allen stated that Claimant's condition was approaching an emergency situation due his leg weakness, stooped gait and worsening pain.

Medical Records of Southern Bone & Joint Specialists, Dr. Maddox (EX-16)

As testified, Claimant suffered an initial back injury in 1992 for which Claimant underwent surgery. He was treated for this injury by Dr. Maddox. Claimant returned to Dr. Maddox numerous times complaining of back pain due to various accidents. On February 18, 1994 Claimant had a flare-up of his back pain while working offshore. Dr. Maddox's notes indicate that he did not think Claimant should continue working heavy manual labor. On March 17, 1994 Claimant was handling a 100 pound sack of corn when he slipped in a hole and consequently returned to Dr. Maddox complaining of back pain. Again Dr. Maddox stated that Claimant needed to find some alternative employment besides heavy labor. In December 1994 Claimant stated he fell out of his trailer and suffered a right hip and leg injury, for which he sought treatment from Dr. Maddox. In 1995 Claimant underwent another surgery to remove hardware from his back. In June 1995 Dr. Maddox released Claimant to work with a 50 pound occasional lifting restriction.

On August 26, 1996 Claimant called in to Dr. Maddox's office complaining that he could not perform his truck driving job and thus Dr. Maddox took him off work. Again, in April 1997 Claimant called Dr. Maddox's office complaining of severe back pain.

Claimant returned to Dr. Maddox in March 1998 and noted some problems mostly contained over the left sacroiliac area. Dr. Maddox did note, however, that he felt Claimant was doing well in regard to his previous fusion.

Medical Records of the Orthopedic Group, EX-2

In May 1998 Claimant saw Dr. Barbour at the Orthopedic Group complaining of low back pain due to a fall. In June 1998, after attempting to return to work, Claimant returned to Dr. Barbour again complaining of lower back pain that radiates into his right leg. Dr. Barbour opined that Claimant was suffering from a flare up of his degenerative disc disease and took Claimant off work for a short period of time.

Medical Records of Dr. Allen Sherman, EX-21

In August 1998, Claimant was seen by Dr. Sherman for unrelated medical concerns; however, at this visit Claimant mentioned he was suffering from back

pain. He returned to Dr. Sherman in September 1998 still complaining of “nagging” back pain. On July 7, 1999, Claimant was seen by Dr. Sherman again for low back pain. Claimant told Dr. Sherman he [Claimant] bent over to pick something up and felt a pop in his back.

On September 6, 2001, Claimant returned to Dr. Sherman and again stated he picked up something wrong and reinjured his back. He complained of lumbar back pain and pain radiating down the right thigh. On March 4, 2002, Claimant stated he hurt his back when he fell while carrying a piece of equipment at work and thus had lower back pain radiating down his left leg. He returned to Dr. Sherman three days later on March 7, 2002 after being involved in a motor vehicle accident which caused Claimant neck and lumbar spine pain. In August 2002, Claimant again was seen by Dr. Sherman and complained of chronic back pain. It was noted that Claimant had scheduled an appointment, in three weeks, with Dr. Maddox.

Medical Records from Dr. Tarabein, EX-18

Claimant treated with Dr. Tarabein from approximately January 2004 through March 2005. Dr. Tarabein’s records indicate that Claimant complained of chronic back pain that would wax and wane, but at times was excruciating. Dr. Tarabein’s notes from March 21, 2004 indicate that Claimant was suffering from severe lumbago with left L5/S1 radicular pain, radiating to left leg that has been progressively worsening. Throughout his treatment of Claimant, Dr. Tarabein performed nerve blocks and prescribed physical therapy, which did provide Claimant some relief. However, on December 20, 2004, Claimant was still complaining of chronic neck and back pain. Dr. Tarabein offered conservative treatment, but recommended that Claimant also have a surgical consultation. Dr. Tarabein’s notes from December 20, 2004 stated that Claimant “is scared of any further surgical ventures as patient already had failed back surgery...” (EX-18, pp. 2) The last notes provided from Dr. Tarabein are dated March 21, 2005 and state that Claimant continues to have unusual lower back pain. Claimant was taking medication as needed to control the pain.

Infirmiry West Medical Records, EX-22

Employer’s Exhibit 22 contains emergency room medical records dated October 17, 2005. On this date Claimant presented to the ER complaining of back pain. The description of incident appears to say that Claimant fell in bathroom

landing on back in tub. Claimant had pain in his back radiating into his left leg and left big toe.

Findings of Fact and Conclusions of Law

The following findings of fact and conclusions of law are based upon my observation of the appearance and demeanor of the witnesses who testified at the hearing and upon an analysis of the entire record, arguments of the parties, and applicable regulations, statutes, and case law. In evaluating the evidence and reaching a decision in this case, I have been guided by the principles enunciated in *Director, OWCP v. Greenwich Collieries (Maher Terminals)*, 512 U.S. 267, 28 BRBS 43 (1994), that the burden of persuasion is with the proponent of the rule. Additionally, as trier of fact, I may accept or reject all or any part of the evidence, including that of medical witnesses, and rely on my own judgment to resolve factual disputes or conflicts in the evidence. *Todd Shipyards v. Donovan*, 300 F.2d 741 (5th Cir. 1962). The Supreme Court has held that the “true doubt” rule, which resolves conflicts in favor of the Claimant when the evidence is balanced, violates Section 556(d) of the Administrative Procedures Act. *Director, OWCP v. Greenwich Collieries*, 512 U.S. 267, 28 BRBS 43 (1994).

Causation

There is no issue about the fact that Claimant has back pain and the medical opinions of Drs. Allen and Patton as they pertain to Claimant’s present back condition are apparently not disputed. Likewise, no claim is made that Claimant can perform heavy labor. What is in dispute is whether or not during his 3-month career with Employer, Claimant suffered an injury at work which caused, aggravated, or accelerated his present condition. In that regard, it is my finding Claimant has not proven any such thing occurred at work, and accordingly has not invoked the Section 20 presumption.

Section 20(a) of the Act provides a Claimant with a presumption that his disabling condition is causally related to his employment if he shows that he suffered a harm, and that employment conditions existed which could have caused, aggravated, or accelerated the condition. *Merrill v. Todd Pacific Shipyards Corp.*, 25 BRBS 140 (1991); *Stevens v. Tacoma Boat Building Co.*, 23 BRBS 191 (1990). The Section 20(a) presumption operates to link the harm with the injured employee’s employment. *Darnell v. Bell Helicopter Int’l, Inc.*, 16 BRBS 98 (1984).

Once the Claimant has invoked the presumption, the burden shifts to the employer to rebut the presumption with substantial countervailing evidence and show that the claim is not one “arising out of or in the course of employment.” 33 U.S.C. §§ 902(2), 903; *Ortco Contractors, Inc. v. Charpentier*, 332 F.3d 283 (5th Cir. 2003); *James v. Pate Stevedoring Co.*, 22 BRBS 271 (1989). Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept to support a conclusion. *Sprague v. Director, OWCP*, 688 F.2d 862, 865 (1st Cir. 1982). If the employer meets its burden, the Section 20(a) presumption is rebutted and disappears, and the administrative law judge must weigh all the evidence and render a decision supported by substantial evidence. *Del Vecchio v. Bowers*, 296 U.S. 280 (1935).

Employer disputes the occurrence of an accident at work asserting that Claimant’s description of the accident, including the date of accident, is inconsistent and unreliable and that Claimant’s back condition pre-existed any alleged accident. Claimant, on the other hand contends, that he injured his back at work, sometime before Christmas in December 2005 (he mentioned December 20, 2005 and December 22, 2005 as possible dates of injury) when a large crane bucket pinned him against another piece of metal as he was descending a ladder.

In order to invoke the Section 20 presumption Claimant must prove both that he suffered a harm and that working conditions existed which could have caused, aggravated, or accelerated the condition. Claimant’s evidence supporting the occurrence of an accident is not convincing. No clear date of accident has been established, there were no witnesses to the event, the event itself seems unlikely and most importantly I am distrustful of Claimant’s testimony.

Claimant told Dr. Allen he was injured on December 22, 2005; however, on his initial patient history form he filled in the date of injury as December 26, 2005. Previously, he had told Dr. Taylor, the first doctor he saw following the alleged accident, that he was injured on December 20, 2005. At the hearing, Claimant testified that he was not sure of the exact date, but knew the accident occurred sometime before Christmas 2005. While this date discrepancy is not unreasonable in and of itself, it becomes more problematic in light of Employer’s records which contain an accident report dated November 26, 2005, in which the accident Claimant alleges occurred in December is described. (EX-9)

Regardless of the date discrepancy, I have doubts about Claimant’s description of the nature of the unwitnessed accident itself. Claimant alleges that a crane bucket, which he stated weighed about 8,000 pounds (in the accident report it

stated the crane weighed about 12,000 pounds) pinned him against another piece of metal while his arm, hooked on the ladder, kept him from falling. Yet, Claimant suffered no bruising or any other visible sign of injury. Nor did Claimant report any injury immediately following the accident, although he stated he took the rest of the day off. Rather, he continued working and it was not until January 5, 2005 that he sought medical attention from Dr. Taylor. It appears that Dr. Taylor did not see any objective signs of injury, but he put Claimant on light duty for a few days and then returned him to work at full duty.

Foremost, however, in denying Claimant's claim is that I find incredible Claimant's testimony that any such accident caused his current back condition. It is apparent from the record that Claimant has suffered a myriad of accidents/injuries to his back, beginning in 1992, which show a long standing history of chronic back problems and treatment by various doctors and emergency room visits. Even as late as October 17, 2005 (approximately two months prior to Claimant's alleged injury) he went to the emergency room due to back pain resulting from a slip and fall in his bathroom. (EX-22) Claimant's assertion at the hearing that the last treatment he had for his back was about a year prior to the alleged accident is clearly wrong. Similarly, Claimant's representation to Dr. Allen that his back had not given him much trouble following his surgeries in 1992 and 1993 is not credible; and Dr. Allen's opinion regarding the relationship between Claimant's alleged work accident and his current medical condition is based on erroneous history provided by Claimant. In other words, I find Claimant's testimony to be unsupported by any evidence of record.

Prior to December 1995 for 13 years Claimant was treated for low back pain caused by multiple separate accidents. Following a 1992 accident Claimant had two back surgeries and remained under the care of Dr. Maddox for approximately 6 years. However, despite his trial and deposition testimony this was not the only accident he ever suffered which caused him back pain, for there were many subsequent accidents. Claimant also erroneously testified that he was pain free at the time of the alleged December accident and had not seen a doctor for back complaints in a year. This too is not true. The record reveals the following:

1. In February 1994, following his surgeries, Claimant had a flare up of back pain which caused Dr. Maddox to restrict him from heavy labor;
2. In March 1994, Claimant stepped in a hole while carrying a 100 pound sack and again sought treatment for his back from Dr. Maddox;

3. In December 1994, Claimant fell from a trailer and was treated by Dr. Maddox;

4. In April 1995, Claimant had hardware removed from his back;

5. In June 1996, Claimant fell running in a parking lot and returned to Dr. Maddox. On that occasion Claimant also reported because of his back pain he was unable to return to work as a truck driver and applied for disability benefits;⁸

6. In April 1997, Claimant complained to Dr. Maddox of severe back pain and in August of that year Dr. Maddox opined Claimant had a 50% range of motion in his back and could not perform unrestricted heavy labor;

7. In March 1998, while working as a sandblaster Claimant complained of pain in his back and Dr. Maddox prescribed pain medication;

8. In May 1998, Claimant fell on his low back. Claimant was treated by Dr. Barbour who found degenerative disc disease at L-5/S-1 and decreased sensation at L-4/5;

9. In August and September of 1998, Claimant was treated by Dr. Sherman for low back pain and again in 1999 when Claimant said he bent over to lift something and felt a pop in his back;

10. In December of 2001, Claimant filled a prescription for Lortab prescribed by Dr. Sherman, as he also did in January and March of 2002;

11. In March 2002, Claimant received treatment from Dr. Sherman for low back pain radiating into his left leg following yet another fall while carrying equipment. Later the same month, and following a motor vehicle accident, Claimant returned to Dr. Sherman for lumbar pain from L-1 to L-5;

12. In July 2002, Claimant was diagnosed with lumbar sacroid pain and x-rays demonstrated degenerative disc disease from L-3 to S-1;

13. In August 2002, Claimant was treated by Dr. Sherman for chronic back pain;

⁸ In June of 1995, Dr. Maddox imposed permanent restrictions of occasional lifting of no more than 50 lbs.

14. In July and November of 2003, Claimant filled Lortab and Soma prescriptions written by Dr. Tarabein;

15. In January 2004, Claimant suffered another lifting injury performing heavy labor and reported to Dr. Tarabein he was in pain;

16. In March 2004, Claimant injured his low back and again sought medical attention from Dr. Tarabein;

17. In April 2004, another fall resulted in pain at L-5/S-1 and Claimant was again prescribed Lortab;

18. In May 2004, Claimant presented himself to Dr. Tarabein following another accident and complained of low back pain;

19. In July 2004, Claimant had a motorcycle accident and was treated by Dr. Tarabein for low back and leg pain and once again given more pain medication;

20. In August, September and November 2004, Claimant received treatment from Dr. Tarabein for low back and leg pain and requested a spinal block, and again in September, October and December filled Lortab and Soma prescriptions;

21. In December 2004, Claimant reported that his back pain was becoming incapacitating, but declined surgery recommended by Dr. Tarabein because he had a failed back surgery in the past;

22. In January, February and March 2005, Claimant filled pain prescriptions and saw Dr. Tarabein in March for back pain;

23. In March, April, May, June, August, September and October 2005, Claimant continued to fill prescriptions for Lortab and Soma;

24. In October 2005, following a slip and fall accident, Claimant presented himself at an emergency room for low back pain. X-rays showed retrolisthesis of L-4 on L-5 and L-5 on S-1, degenerative disc disease at L-5/S-1, and facet hypertrophy from L-2 to S-1. Claimant was given prescriptions and filled the same for Lortab and Ibuprofen; and

25. Eleven days later Claimant began his employment with Employer.

In sum, while one might overlook Claimant's failure to reveal his back condition on an employment application or for that matter his confusion with dates, Claimant's outright denial of his medical history over a 13-year period, both to Dr. Allen as well as in sworn testimony, causes me to be unwilling to accept his unwitnessed version of being struck by an 8,000 lb. bucket at work.⁹ While I do not doubt the Claimant has back pain, I find he has failed to establish that working conditions existed or a work accident occurred with this Employer which caused, aggravated or accelerated any condition from which he now suffers.

In sum, I find Claimant has not invoked Section 20(a) and therefore, Employer/Carrier is not liable to Claimant for compensation or medical benefits.

ORDER

Claimants' claim for compensation and medical benefits under the Act is hereby **DENIED**.

Entered this 27th day of August, 2007, at Covington, Louisiana.

A

C. RICHARD AVERY
Administrative Law Judge

⁹ See Claimant's denials at Tr. pg. 69-81 as well as the history he provided Dr. Allen at CX-1, pg. 10.